

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
INTRA-DEPARTMENTAL CONCURRENCE

Document Title:

EPA letter re ammonia procedure

(Originator)	Name/Office	Initials	Date
	Nancy Brock		
	Stacie Estep	SE	6-30-14
	Michelle Hale	ML	6-30-14
	Stacie Estep	SE	6-30-14
	Nancy Brock		

After final review, return to originator for action. This form will be retained, attached to the file copy of the document.

Remarks:

Scanned to Nancy Brock

18-1006 (4/82)

Due Date



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

Department of Environmental  
Conservation

DIVISION OF WATER  
Director's Office

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June 30, 2014

Daniel D. Opalski  
Office of Water and Watersheds  
U.S. Environmental Protection Agency  
Region 10  
Seattle, Washington 98101-3140

Re: U.S. Environmental Protection Agency 304(a) Recommendations for Ammonia and Recreational Criteria

Dear Mr. Opalski:

The Alaska Department of Environmental Conservation (DEC) is writing this letter in response to your letter dated May 16, 2016 regarding EPA's recommendations to adopt revised water quality criteria for bacteria (recreational use, fresh and marine waters) and ammonia (freshwater) as part of the 2014-2016 Triennial Review.

DEC greatly appreciates EPA's efforts to advance the science associated with the development of water quality criteria. Such research is generally beyond the means of states and is a vital component to protecting the Nation's water resources. That said, DEC is now faced with the challenge of adopting and implementing said criteria in addition to addressing numerous other EPA proposed rules and criteria that have recently been released (i.e., Clarifications to Waters of the U.S., Water Quality Standards Clarifications, revisions to human health criteria, selenium fish tissue criteria, and draft National Beach Guidance and Required Performance Criteria for Grants). This is an extraordinary number of issues to be releasing for public comment at one time and will require significant resources to respond accordingly.

DEC seriously considers the implications of adopting new recommendations and believes that the timing and workload priority for adopting such recommendations during the 2014-2016 Triennial Review must be weighed against the potential for environmental impacts and implementation issues for permitting prior to formal regulation proposal and adoption. In short, DEC requests the right to determine which criteria are most important to work on and the best timeframe and means to do so as part of the Triennial Review and public participation process.

#### 1. 2013 Ammonia Criteria

Alaska is currently reviewing the EPA-proposed 2013 ammonia criteria and will continue to do so during the 2014-2016 Triennial Review period. Monitoring efforts are challenging in a state the size of Alaska and pollutant sources are relatively few and isolated. With the limited information available, neither DEC nor Alaskan stakeholders have identified that this pollutant is having a widespread environmental impact in Alaskan waters. Alaska has very limited agriculture, so nonpoint sources are limited and there is no evidence of significant nutrient pollution problems. Alaska's wastewater treatment facilities and several major industries (including oil and gas producers) have permit limits for ammonia and will require time to consider

how such criteria revisions may affect operations. Modifications to such permits and meaningful enforcement of new permit limits that require changes in treatment systems may prove to be challenging. Allowing time to carefully consider the implications associated with implementation of the recommended ammonia criteria will provide DEC better opportunity to deliver the intended environmental protection.

## **2. 2012 Recreational Criteria (Bacteria) and National Beach Guidance and Required Performance Criteria for Grants.**


DEC has previously commented on the 2012 Recreational Water Quality Criteria (RWQC) and remains concerned about the lack of flexibility for states that need to establish less stringent criteria for cold or remote waters. Alaska, like other Region 10 states, has limited recreational bathing occurring and does not feel that the recommended criteria truly reflect the degree of risk EPA portrays to the general public. This is further exacerbated by the proposed Beach Action Value (BAV) of 60 enterococci per 100mL based on 2012 RWQC that was proposed in the draft National Beach Monitoring Guidance. DEC estimates that implementing the recommended BAV would result in 3.7 times more beach advisories based on Alaska beach monitoring data collected from 2005-2013 without any supporting evidence of beach related illnesses. The lower 2012 bacteria criteria and associated RWQC would treat all waters as having the same risk from pathogen without regard to geographic location, water temperature, type of recreational water use, and length and extent of exposure. Alaska's recreational use mainly consists of fishing, boating, and beach combing, with only limited swimming areas. EPA has not yet issued bacteria criteria for secondary recreation, which might be more appropriate for these activities. The tiered structure in the previous criteria promulgated for Alaska in 2004 Bacteria Rule (69 FR 67217) gave the state the ability to implement the bacteria criteria with state-specific circumstances in mind. Additional comments on this issue have been submitted as part of the 2014 draft National Beach Guidance and Required Performance Criteria for Grants comment period per EPA Federal Register Notice dated April 18, 2014.

DEC will identify and public notice its proposed priorities for the 2014-2016 Triennial Review in 2014. As you know, DEC has committed to address some highly complex and fundamental issues in the state water quality standards including antidegradation implementation and potential revisions to human health criteria. These issues may require several years of ongoing review by both DEC and EPA staff. DEC is considering other EPA-recommended criteria and issues by priority based on the needs of the state. However, both DEC and EPA must recognize the resource and workload limitations imposed by the numerous issues associated with water quality standards.

Alaska's 2014-2016 Triennial Review process is very considerate of how criteria are developed, interpreted, and implemented. While it may sound cliché to say that "things are different here," it truly is the case in regards to the regulatory issues that the state is currently grappling with. The sheer size of the state, types of industry present, and climate are highly influential in how Alaska's priorities are managed when addressing water quality standards. Thus, flexibility and understanding on the part of EPA is vital to ensuring that DEC is able to remain proactive in its approach to water quality management and the timing of its regulatory decisions.

Please feel free to contact me if you have further concerns or questions.

Sincerely,

  
Michelle Hale  
Director

Cc Angela Chung, EPA R10  
William Beckwith, EPA R10

Bcc Nancy Sonafrank, DEC/Fairbanks  
Brock Tabor, DEC/Juneau

## Estevez, Stacie L (DEC)

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**From:** Hale, Michelle M (DEC)  
**Sent:** Monday, June 30, 2014 6:49 AM  
**To:** Estevez, Stacie L (DEC)  
**Subject:** FW: DEC Response to EPA letter re ammonia and rec criteria 062614.docx  
**Attachments:** DEC Response to EPA letter re ammonia and rec criteria 062614 (2).docx

Stacie,

Will you please print for my signature, today's date?

Thanks.

- Michelle

*Michelle Hale  
Director, Division of Water  
Department of Environmental Conservation  
(907) 465-5135*

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**From:** Sonafrank, Nancy B (DEC)  
**Sent:** Friday, June 27, 2014 4:07 PM  
**To:** Hale, Michelle M (DEC)  
**Cc:** Tabor, Brock N (DEC); Estevez, Stacie L (DEC)  
**Subject:** FW: DEC Response to EPA letter re ammonia and rec criteria 062614.docx

I think Brock has addressed your comments.

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**From:** Tabor, Brock N (DEC)  
**Sent:** Friday, June 27, 2014 3:40 PM  
**To:** Sonafrank, Nancy B (DEC)  
**Subject:** RE: DEC Response to EPA letter re ammonia and rec criteria 062614.docx

I played with the sentence structure a bit and think I made an improvement.

Let me know if you agree or not.

Brock

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**From:** Hale, Michelle M (DEC)  
**Sent:** Friday, June 27, 2014 2:52 PM  
**To:** Tabor, Brock N (DEC)  
**Cc:** Sonafrank, Nancy B (DEC)  
**Subject:** DEC Response to EPA letter re ammonia and rec criteria 062614.docx

I post a couple of questions and comment boxes. I also made a few edits but I did not use track changes. Once I get a response back, I will have Stacie format it for my signature on Monday.